

OFFICE OF THE GOVERNOR
STATE OF MONTANA

BRIAN SCHWEITZER
GOVERNOR

JOHN BOLLINGER
LT. GOVERNOR

May 20, 2008

Community Advisory Group
c/o Gerald Mueller
Consensus Associates
440 Evans Ave.
Missoula, MT 59801

To the Communities of Libby, Troy, and southern Lincoln County
c/o the Community Advisory Group for the Libby Asbestos Superfund Site

Re: CERCLA Settlement for Libby Site

As you all know, the United States recently proposed a \$250 million settlement with WA. Grace for response costs at the Libby Asbestos Site. As staff from my office and from the Department of Environmental Quality (DEQ) indicated in a meeting up in Libby on March 18, I wanted to hear what you folks thought about that settlement before taking a final position on it myself.

I appreciate the serious thought and the sincere effort that the community put into preparing its comments on the settlement. Those comments were presented to the United States Department of Justice in a letter with 401 citizen signatures, and that letter clearly sets out some of the community's concerns. The United States has provided a response to the community's comments in a pleading filed with the bankruptcy court overseeing W. R. Grace's bankruptcy proceedings.

The first comment in the community's letter seeks assurances from EPA that the settlement amount and the interest on that amount will all be used to pay for future cleanup at the Libby Site. In its response EPA gives some additional assurances that the money won't be diverted, and the community's comment was instrumental in getting those additional assurances in writing. While I too would like unequivocal assurance from EPA that the settlement will be used at Libby alone, I am informed that such a guarantee is unlikely. I am pleased, nonetheless, that EPA has provided additional assurances beyond those originally announced.

In its second comment, the community sought assurances that EPA would perform a proper risk assessment. This too is a concern of the State, and I want you to know that my administration will be actively engaged in pushing for a properly completed risk assessment.

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In its third comment, the community sought assurances that operation and maintenance (O&M) costs would be adequately funded for the long term. This is also a primary concern of the State. As you know, in its settlement EPA set aside \$11 million, along with interest earned, to ensure at least that amount will be available for O&M expenses when necessary. Here too, I assure you that my administration will be intimately involved and will work with you, as members of the community, to ensure that O&M is properly defined and completed.

The State also filed its own claims against Grace in the bankruptcy, and O&M expenses are part of the State's claim. While a portion, and we hope most, of these costs are covered in the \$250 million settlement, given the current posture of the bankruptcy court case, we have come to believe that now is the State of Montana's best opportunity to obtain additional funding for O&M beyond the \$11 million included within the \$250 million settlement. Consequently, DEQ has been negotiating with Grace for additional funding to the State of Montana to supplement future O&M activities.

As stated at the outset, recognizing the importance of this issue to the community and to the State, I wanted to hear what the people of Libby had to say before making any decisions related to the EPA/Grace proposed settlement. Similarly, once a proposed settlement between the State of Montana and Grace is reached, I will want to hear from the Libby community on that settlement, as well, before finalizing it. I hope to be able to submit our own proposed agreement to you for your review and comment very soon.

I commend all of you in the Libby area who have continued to fight to see that W.R. Grace is held responsible for the harm it has caused to the Libby community.

Sincerely,

BRIAN SCHWEITZER
Governor

cc: Richard Opper, Director, DEQ
Catherine LeCours, DEQ Project Officer